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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,917	10/30/2003	Anthony R. Tuel	RSW920030189US1	9643
23550 7590 09/10/2007 HOFFMAN WARNICK & D'ALESSANDRO, LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207			EXAMINER WU, QING YUAN	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/697,917

Applicant(s)

TUEL, ANTHONY R.

Examiner

Qing-Yuan Wu

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,9,10,12-15 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,9,10,12-15 and 17-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1, 3-6, 9-10, 12-15 and 17-25 are pending in the application.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 13-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claim 13 is a system claim directed to software alone without claiming associated computer hardware required for execution. Claims 14-17 are dependent claims of claim 13 and do not support the hardware requirement for implementing the system of claim 13, therefore they are rejected for the same reason.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 4 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following claim language is indefinite:

i. As per claim 4, it is uncertain whether “a requester”, refers to “a requester” in claim 1, line 7 (i.e. if they are the same then said or the should be used and “the requester” should be used throughout the dependent claims). For examination purpose, they will be treated as the same requester. Claim 10 is rejected for the same reason.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3-6, 9-10, 12-15 and 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Somogyi et al (hereafter Somogyi) (U.S. Publication 2004/0215594), in view of Applicant Admitted Prior Art (hereafter AAPA) (Pub. No. 2005/0097555).

9. As to claim 1, Somogyi teaches a method of processing a transaction that requires a plurality of resources, the method comprising:

requesting preparation of a first resource required by the transaction;

requesting preparation of a second resource required by the transaction before receiving a preparation response from the first resource [Fig. 4; paragraphs 22 and 25];

receiving the preparation response for the first and second resources [paragraph 23, lines 13-16; 570, Fig. 5];

requesting, one of: a commitment or a roll back of each resource based on the preparation responses [paragraph 8, lines 15-29].

10. Somogyi does not specifically teach replying to a requester based on the preparation responses. However, Somogyi disclosed reporting results of XA operation [paragraph 27]. In addition, AAPA teaches providing a response to the requester once both resources have been successfully committed [AAPA, paragraph 5].

11. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have modified the teaching of Somogyi with the teaching of AAPA because Somogyi and AAPA are both in the same field of endeavor and that the teaching of AAPA can further enhances the teaching of Somogyi by properly notifying the operating status of a requested transaction to the requester.

12. Furthermore, Somogyi and AAPA do not specifically teach wherein the requesting commitment/roll back step occurs after the replying step. However, AAPA teaches providing a response to the requester once both resources have been successfully committed [AAPA, paragraph 5].

13. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have further modify the teaching of Somogyi and AAPA by changing the order of notification of operating status of a requested transaction to the requester before a commitment response depending on inventor's design preference since resources can subsequently be

Art Unit: 2194

committed upon successfully preparation of the resources as being disclosed in AAPA [AAPA, paragraphs 4-5].

14. As to claim 3, Somogyi as modified teaches logging a preparation result for the transaction based on the preparation responses [paragraphs 24 and 27; pgs. 4-5, claims 5 and 10].

15. As to claim 4, Somogyi as modified teaches receiving a transaction request from a requester [paragraph 6; AAPA, paragraphs 4-5, 7].

16. As to claim 5, this claim is rejected for the same reason as claim 1 above.

17. As to claim 6, this claim is rejected for the same reason as claim 1 above.

18. As to claim 9, this claim is rejected for the same reason as claim 1 above. In addition, Somogyi as modified teaches a method of processing a transaction, the method comprising: concurrently preparing a plurality of resources for the transaction, the preparing including performing a set of operations on each of the plurality of resources based on the transaction [paragraph 8; AAPA, paragraph 4]; waiting for a preparation response for each of the plurality of resources; and concurrently committing the plurality of resources to make the operations of the transaction permanent [Fig. 4; paragraphs 8, 22 and 25; AAPA, paragraph 4, lines 18-20].

19. As to claim 10, this claim is rejected for the same reason as claim 4 above.

Art Unit: 2194

20. As to claim 12, this claim is rejected for the same reason as claim 3 above.

21. As to claim 13, this is rejected for the same reason as claims 1 and 9 above. In addition, Somogyi as modified teaches a reception system for receiving a transaction request from a requester [paragraph 6; AAPA, paragraphs 4-5, 7].

22. As to claim 14, this claim is rejected for the same reason as claim 3 above.

23. As to claim 15, this is rejected for the same reason as claim 9 above.

24. As to claim 17, this claim is rejected for the same reason as claim 13 above. In addition, Somogyi and AAPA do not specifically teach creating a plurality of resource threads. However, Somogyi disclosed dispatching interaction commands to idle server threads in a thread pool and situation when all server threads are being utilized (no idle thread) [paragraphs 20-21, 24, 31]: It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to be motivated to modify the teaching of Somogyi and AAPA to further enhance Somogyi and AAPA's transaction processing method by creating threads or a thread pool with idle threads for preparing resources if not all the server threads are utilized (availability of server threads, idle threads) and that no thread pool exist.

25. As to claim 18, this is rejected for the same reason as claims 1 and 9 above. In addition, Somogyi as modified teaches simultaneously waiting for a preparation response for each of the plurality of resources based on preparation response [paragraph 23, lines 13-16; 570, Fig. 5];

requesting at least one of: commitment or roll back of the plurality of resources based on at least one preparation response [paragraphs 8, 21, 24 and 28].

26. As to claim 19, this is rejected for the same reason as claim 4 above.

27. As to claim 20, this is rejected for the same reason as claim 3 above.

28. As to claim 21, Somogyi and AAPA do not specifically teach a non-blocking function call. However, Somogyi disclosed preparing each resource in parallel without having to wait on the result from a previous resource [paragraphs 22-23]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to recognize that Somogyi's requests for parallel execution is functionally equivalent in achieving the result of a non-blocking function call.

29. As to claim 22, this is rejected for the same reason as claim 17 above.

30. As to claim 23, this is rejected for the same reason as claim 5 above.

31. As to claim 24, this is rejected for the same reason as claim 21 above.

32. As to claim 25, this is rejected for the same reason as claim 5 above.

33. The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

U.S. Patent No. 5,319,773 and 5,613,060 to Britton et al.

U.S. Patent No. 6,434,555 to Frolund et al.

U.S. Patent No. 6,493,826 to Schofield et al.

Response to Arguments

34. Applicant's arguments filed 6/21/07 have been fully considered but they are not persuasive.

35. In the remarks, Applicant argued in substance that:

- a. 35 USC § 101 rejection of claims 13-17 should be withdrawn.
- b. Neither Somogyi nor AAPA provides any support for the Office's statement that "resources are bound to commit upon successful preparation of the resources".
- c. Neither Somogyi nor AAPA provides any teaching or suggestion for replying to a requester prior to requesting one of: a commitment or a roll back.

36. Examiner respectfully traversed Applicant's remarks:

37. As to point (a), the examiner respectfully disagrees and submits that applicant's claimed invention does not support applicant's arguments. Claimed subject matter, not the specification, is the measure of invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art, in this case the outstanding 35 USC § 101 rejection. If

Art Unit: 2194

Applicant believes the limitation is important feature of the invention, it should be incorporated into the claims for further consideration. In re Self, 213 USPQ 1,5 (CCPA 1982); In re Priest, 199 USPQ 11,15 (CCPA 1978).

38. As to point (b), the examiner have edited the reason for obviousness to further clarify the ground of rejection.

39. As to point (c), please see paragraphs 12-13 above.

40. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2194

41. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-6:00pm Monday-Thursday and alternate Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on (571) 272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Qing-Yuan Wu

Examiner

Art Unit 2194


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER